

REMARKS

This application has been carefully reviewed in view of the current Office Action and the undersigned respectfully requests reconsideration in view of the above amendments and the following remarks.

Regarding the objection to the drawings, the specification is amended hereby in order to assure that the reference numbers in the specification do not conflict with the drawings. Reconsideration and removal of all objections to the specification and drawings is therefore respectfully requested.

Regarding the requirement to update the status of the copending applications, the specification has been amended to reflect the patent number of the issued patent.

The current Office Action utilizes the Novak published patent application (Novak) in formulating each rejection in the current Office Action. Novak discloses a system and method for providing programming to a collection of end users. However, as understood by the undersigned, Novak differs from Applicant's claimed invention in a number of significant ways as follows:

1. In Novak, a user uploads content to a web site.
2. Other users are provided access to the content by providing a link to the web site.
3. Content is provided to other users by streaming content from the web site.
4. The recipient users receive the content through use of an EPG that lists a "simulated channel" that the user selects as though it were a real television channel. Upon making this selection, the user is linked to the web site.

This contrasts with embodiments consistent with the present invention, as characterized by the rejected claims, which have been amended to clarify and highlight the existing distinctions as follows:

1. User content is uploaded from a set-top box directly to the television service provider headend. No web site intermediary is needed.

2. Other users are provided access to the content by transmission directly from the television service provider. There is no need to link to a web site URL to access the content.
3. Content is provided to other users by accessing an actual television channel. No web site intermediary is needed.
4. Content is provided to other users by accessing an actual television channel rather than a "simulated channel" which simply links the user to the web site in order to access the content.

The claims have been amended to highlight these distinctions. However, the claims are believed to distinguish over the cited art, even without such amendments, when the details of the claim language is examined, since these distinctions are believed inherent in the originally submitted language. However, in order to clarify the language, Applicants submit the current amendments.

Specifically regarding claims 1-5, 7, 8, 10, 11, and 12-17, each of the claims clearly call for "*the programming content being transmitted electronically from the first subscriber to the service provider headend via a first subscriber's set-top box*" and "*multicasting the programming content from the service provider headend to the class of subscribers*", or similar language. This clearly distinguishes over the Novak reference for the reasons described above. Accordingly, there can be no anticipation of the claims. Reconsideration of claims 1-5, 7, 8, 10, 11, and 12-17 and allowance at an early date is respectfully requested.

Regarding the obviousness rejection of claims 6, 9, 12 and 18, Applicants note that each of the above arguments regarding the deficiencies in the Novak reference are equally applicable. Absent the teachings missing from Novak, the current rejections fall short of establishing *prima facie* obviousness. Accordingly, reconsideration and allowance of claims 6, 9, 12 and 18 is respectfully requested.

Regarding the Office Action's Official Notice, Applicants note that there is no precedent in the cited art or art known to Applicants or the undersigned for utilizing

encryption keys to provide access to content for a class of subscribers in a system in which the content is provided by one or more of the class members as taught and claimed in the present application. Accordingly, further evidence is requested under MPEP 2144.03(C)* in support of this grounds for rejection, or the rejection withdrawn.

Applicants also submit herewith two new claims for consideration by the Examiner. These claims relate specifically to the storage location for uploaded content and are fully supported, for example, by the first full paragraph of page 16 of the specification. Clearly, these claims involve no new matter. Consideration and allowance of these claims is respectfully requested.

The undersigned additionally notes that many other distinctions exist between the cited reference and the invention as claimed. However, in view of the clear deficiencies in the art as pointed out above, further discussion of these deficiencies is believed to be unnecessary at this time; failure to address each point raised in the Office Action should accordingly not be viewed as accession to the Examiner's position.

The undersigned further notes that the Novak reference has an earliest possible effective date of Aug. 28, 2000 (assuming that the provisional application, which has not been examined or supplied by the Examiner, provides the same disclosure as the current publication). Moreover, the effective date may be as late as Dec. 19, 2000. The undersigned notes that Applicants are able to predate this reference in a rule 131 declaration, but chooses not to do so at this time in view of the above distinctions. However, the undersigned reserves the right to present such a declaration in the future if need be.

In view of this communication, all claims are now believed to be in condition for allowance and such is respectfully requested at an early date. If the Examiner feels that additional issues remain to be resolved prior to allowance of all claims, the undersigned

* It is noted that per MPEP 2144.03 (C), failure by Applicant to challenge the Office Action's Official Notice can be construed as an admission of the art alleged in the Official Notice. Since the undersigned has no personal knowledge that the assertions made in taking the Official Notice are correct as explained above, the assertion must be challenged. The undersigned regrets the need to challenge this Official Notice and any additional burden this places on the Examiner.

respectfully requests the courtesy of a telephonic interview prior to issuance of the next Office Action. The undersigned can be reached at the telephone number given below.

Respectfully submitted,



Jerry A. Miller
Registration No. 30,779

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Please Send Correspondence to:
Jerry A. Miller
Miller Patent Services
2500 Dockery Lane
Raleigh, NC 27606
Phone: (919) 816-9981
Fax: (919) 816-9982

Customer Number 24337

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